

## REMARKS

The above amendments to the specification and claims have been made to comply with requirements for patent applications containing nucleotide sequence and/or amino acid sequences. Accordingly, Applicants believe no new matter is added by these amendments.

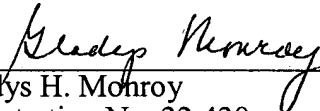
Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made".

In the unlikely event that the Fee Transmittal becomes separated or the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 514012000200. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: April 2, 2002

By:

  
Gladys H. Monroy  
Registration No. 32,430

Morrison & Foerster LLP  
755 Page Mill Road  
Palo Alto, California 94304-1018  
Telephone: (650) 813-5711  
Facsimile: (650) 494-0792

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the Specification:**

*Please substitute the following for the paragraph beginning on page 13, line 10*

ii) TGA AGG TCA (SEQ ID NO:2);

*Please substitute the following for the paragraph beginning on page 14, line 17*

ii) TGA AGG TCA (SEQ ID NO:2);

*Please substitute the following for the paragraph beginning on page 16, line 23 and ending on page 17, line 6*

The terminology “estrogen response elements” or “estrogen cis-acting elements” refers to well-known nucleic acid sequences to which transcription factors such as the orphan nuclear receptor  $ERR\alpha$  can bind, thereby having the potential to modulate the promoter activity of a promoter comprising such response or cis-acting elements. These cis-acting elements or estrogen response elements also termed “ERE” or “IR3” are well-known in the art (Petterson, 1996, Mech. Dev. 54:211-223). In Petterson et al. (1996, *supra*), it is for example taught that the perfect inverted repeat (IR) of the estrogen response element to which  $ERR\alpha$  can bind has sequence AGG TCA NNN TGA CCT (SEQ ID NO:1). It is also known from Sladek et al., 1997, Bonnelye et al., 1997 and Johnston et al., 1997 that this acting element comprising the sequence TGA AGG TCA (SEQ ID NO:2) can also bind  $ERR\alpha$  and related factors.

**In the Claims:**

Please amend the following claims.

23. (Twice Amended) A method of modulating fat tissue growth and/or weight gain, comprising:

a) administering to an animal an agent which modulates the promoter activity of a gene, wherein said promoter comprises cis-acting elements selected from the group consisting of:

i) an estrogen response element;

- ii) TGA AGG TCA (SEQ ID NO:2);
- iii) AGG TCA NNN TGA CCT (SEQ ID NO:1); and
- iv) functional variants of i-iii[]]

such as to modulate the level of said gene, thereby modulating fat tissue growth and/or weight gain in said animal.

33. (Twice Amended) A method of treating and/or preventing obesity, comprising administering to an obese animal, or an animal susceptible of becoming obese, an agent which modulates the promoter activity of a promoter comprising a cis-acting element selected from the group consisting of:

- i) an estrogen response element;
- ii) TGA AGG TCA (SEQ ID NO:2);
- iii) AGG TCA NNN TGA CCT (SEQ ID NO:1); and
- iv) functional variants of i-iii[]]

wherein cis-acting element is capable of binding to  $ERR\alpha$ .